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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,665	02/19/2004	Joel Grossman	35380-000105/US/COC	1989

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EXAMINER

BRYANT, DAVID P

ART UNIT PAPER NUMBER

3726

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/780,665

Applicant(s)

GROSSMAN ET AL.

Examiner

David P. Bryant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dougher et al. (U.S. Patent No. 4,692,952).**

Claim 1: In Figures 1-4, Dougher et al. teach a method of performing drop-in assembly, comprising:

providing a first futon frame component 18 with an open track 31 (Figure 4);

providing a second futon frame component 12 including at least one protrusion 42/43 (slats 42 and 43 are “protrusions” since they protrude from support rails 35); and

setting the second futon frame component 12 onto the open track 31 of the first futon frame component 18 such that the at least one protrusion 42/43 rests on the open track 31 (in the futon configuration shown in Figures 1 and 2, protrusion 43 is dropped within the lower portion 25 of the open track 31; in the futon configuration shown in Figure 4, protrusion 42 is dropped onto upper portion 22 of the open track 31).

Claim 2: Figure 4 shows that the open track is open in a direction of the drop-in.

Claim 3: Figure 4 shows the protrusion 42 being dropped into a resting position on top 22 of the open track 31.

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Claim 4: Figure 4 shows that a top of the open track is exposed to allow the protrusion 42 to be placed thereon.

Claims 5 and 6: Figure 4 shows the protrusion 42 being placed on top of the open track 31.

Claim 7: As best shown in Figure 4, the open track 31 includes a body with at least two positions (i.e. top position 22 and bottom position 25), the body including at least a nose portion 27, a slanted portion 26, and a horizontal portion 22.

Claim 8: In Figures 1-4, Dougher et al. teach a method of performing drop-in assembly, comprising:

providing a first futon frame component 18 with an open track 31 (Figure 4), including a body with at least two positions (i.e. top position 22 and bottom position 25);

providing a second futon frame component 12 including at least one protrusion 42/43 (slats 42 and 43 are “protrusions” since they protrude from support rails 35); and

moving the second futon frame component 12 such that the at least one protrusion 42/43 rests on the track 31 in a position where the second futon frame component 12 is in a stable position (in the stable futon position shown in Figures 1 and 2, protrusion 43 is dropped within the lower portion 25 of the open track 31; in the stable futon position shown in Figure 4, protrusion 42 is dropped onto upper portion 22 of the open track 31).

Claim 9: Figure 4 shows that the open track is open in a direction of the drop-in.

Claim 10: Figure 4 shows the protrusion 42 being dropped into a resting position on top 22 of the open track 31.

Claim 11: Figure 4 shows that a top of the open track is exposed to allow the protrusion 42 to be placed thereon.

Claims 12 and 13: Figure 4 shows the protrusion 42 being placed on top of the open track 31.

Claim 14: As best shown in Figure 4, the open track 31 includes a body with at least two positions (i.e. top position 22 and bottom position 25), the body including at least a nose portion 27, a slanted portion 26, and a horizontal portion 22.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

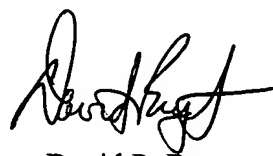
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David P. Bryant whose telephone number is (571) 272-4526. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David P. Bryant  
Primary Examiner  
Art Unit 3726

dpb  
4/1/05